



The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

March 21, 2006

The Honorable Carl R. Johnson, Chairman
Environment and Wildlife Committee
Room 103, Legislative Office Building
Concord, NH 03301

Re: HB 1747-FN, relative to establishing a New Hampshire healthy tidal waters and shellfish protection program, and making an appropriation therefore.

Dear Senator Johnson:

Thank you for the opportunity to comment on HB 1747-FN, which would establish a New Hampshire healthy tidal waters and shellfish protection program, and make an appropriation to partially fund the program. The Department of Environmental Services (DES) supports the primary purpose of this bill, which is continuance of an effective New Hampshire Shellfish Program.

DES takes no position on the question of whether the proposed appropriation should be enacted by the Legislature. DES does support stable, long term funding to maintain a strong New Hampshire Shellfish Program. This program provides significant benefit to public health, the environment, recreation and the economy of New Hampshire's Seacoast.

The Shellfish Program has an annual budget of approximately \$275,000 that has been supported almost entirely with federal funds in the past. Federal funds for the program will drop to about \$100,000 at the end of Federal FY 2006. Consequently, in the absence of other funding, DES will be forced to significantly curtail the program.

Funding cuts will lead to closure of some areas to harvesting and the loss of many of the gains made over the last several years, which have been substantial. In 1999, due to the lack of sanitary surveys, over half of the state's estuarine waters and the entire Atlantic Coast were closed to harvesting. In 2006, 7 years later, 80 percent of these waters are classified and over 93 percent of the Atlantic Coast has been opened for recreational and commercial harvest. In all, 600 acres of estuarine shellfish waters have been reopened for harvest since 1999. New commercial operations have also developed that include shellfish aquaculture ventures that enable diversification of fishermen's incomes.

The management of shellfish sanitation, harvesting, and resource health is a partnership of three state agencies. DES is responsible for determining which growing areas meet health standards for human consumption. The Fish and Game Department is responsible for issuing

harvesting licenses, managing the shellfish resources, and enforcing the open/closed decisions made by DES. The Department of Health of Human Services regulates various aspects of the commercial shellfish industry, including shucking, packing, and shipping. DES also works closely with a number of other organizations including the NH Coastal Program, the NH Estuaries Project, the University of New Hampshire/Jackson Estuarine Laboratory, the U.S. Environmental Protection Agency, and the Great Bay Coast Watch. DES has formed partnerships with the private sector, including FPL Energy Seabrook Station and the Star Island Corporation, for water quality monitoring. Through these collective efforts, New Hampshire received in 2002, and has since maintained, federal approval under the National Shellfish Sanitation Program (NSSP). NSSP approval is maintained by passing rigorous annual federal audits of the program performance. This approval will be in jeopardy if adequate funding is not maintained.

As noted above, water quality monitoring is a critical element of the Shellfish Program to evaluate long term trends, identify and fix contamination problems, open new areas as water quality improves, and ensure that the public health is protected during short term events, including heavy rainfalls and the Red Tide, such as occurred for an extended period last summer. The program maintains or assists with the following critical saltwater quality monitoring and reporting programs:

- The Ambient Monitoring Program involves regular collection of water quality samples from over 70 locations in the tidal waters of the state to assess short and long term trends.
- The "Gulf Watch" Program monitors the levels of toxic substances in blue mussels on an annual basis from Nova Scotia to Cape Cod in partnership with two other states and two Canadian provinces to establish regional trends in the Gulf of Maine.
- Monitoring during sanitary surveys of shellfish growing areas occurs to meet NSSP requirements for opening new shellfish beds for harvesting and then maintaining the open condition. These surveys require a variety of activities in addition to water quality monitoring including pollution source surveys, hydrographic and meteorologic analysis, and other studies tailored to local conditions.
- "Red Tide" monitoring occurs weekly from April through October by collection of blue mussels at two regional sites in concert with other New England states to check the levels of Paralytic Shellfish Poison (PSP) toxin in shellfish meats. This is critical to ensure harvesting is prohibited and clammers are informed of when shellfish are toxic.
- DES works with the Fish and Game Department to maintain the "Clam Hotline" (1-800-43-CLAMS) to provide real time updates to recreational harvesters on the open/closed status of shellfish harvesting areas.

These programs will have to be sharply curtailed if federal funding is reduced in the absence of stable long term funding sources.

The Honorable Carl R. Johnson
March 21, 2006

DES would like to call attention to three items in the bill that the Environment and Wildlife Committee may wish to consider amending. The fiscal year of the appropriation is a particularly important change:

- Given the July 1, 2006 effective date of the bill, the appropriation should be for the fiscal year ending June 30, 2007, not June 30, 2006.
- The purpose statement of the bill lists statutes relevant to the NH Shellfish Program. The Committee might consider adding RSA 143:21 and 143:21-a to the purpose statement, as these too are relevant, and in fact are mentioned in the bill text [487:34, II (a)].
- The definition of "coastal watershed area" (487:36, IV) is no longer necessary. It was included in the original House version of the bill reference to one of the proposed fees that was subsequently deleted in a House amendment.
- Under the Fiscal Note's Methodology section, there is mention of "... 4% of estuarine waters open to harvesting, and 83% of all tidal waters open for harvesting. The estuarine water figure should be 45%.

In conclusion, DES is fully committed to continuance of the effective Shellfish Program developed over the last seven years and supports stable long term funding to ensure long term program sustainability.

Thank you for the opportunity to comment in support of this important legislation. If you have any questions or need additional information, please do not hesitate to call Chris Nash at 559-1509 or me at 271-3449.

Sincerely,


Michael P. Nolin
Commissioner

cc: Representative Gillick
Representative Weare
Representative Francoeur
Representative Stiles
Representative Bridle
Senator Fuller Clark
Senator Hassan